

Noelle E. Dwarzski, WSBA No. 40041
BARLOW COUGHRAN
MORALES & JOSEPHSON, P.S.
1325 Fourth Ave Suite 910
Seattle, WA 98101
Telephone: (206) 224-9900
Facsimile: (206) 224-9820
E-mail: noelled@bcmjlaw.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOARDS OF TRUSTEES OF THE
LOCALS 302 AND 612 OF THE
INTERNATIONAL UNION OF
OPERATING ENGINEERS
CONSTRUCTION INDUSTRY HEALTH
AND SECURITY FUND; LOCALS 302
AND 612 OF THE INTERNATIONAL
UNION OF OPERATING ENGINEERS-
EMPLOYERS CONSTRUCTION
INDUSTRY RETIREMENT FUND; and
WESTERN WASHINGTON
OPERATING ENGINEERS-
EMPLOYERS TRAINING TRUST
FUND,

Plaintiffs,

v.

RIDGEBACK EXCAVATING LLC, a
Washington limited liability corporation,
Contractor's License No. RIDGEEL832LO,
UBI No. 604 124 466,
Defendant.

NO.

**COMPLAINT FOR DELINQUENT
FRINGE BENEFIT CONTRIBUTIONS
(ERISA)**

For their complaint, plaintiffs allege as follows:

COMPLAINT FOR DELINQUENT
FRINGE BENEFIT CONTRIBUTIONS - 1

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SEATTLE, WA 98101
(206) 224-9900

I. PARTIES AND JURISDICTION

1. Plaintiffs are the Boards of Trustees of the Locals 302 and 612 of the International Union of Operating Engineers Construction Industry Health and Security Fund, Locals 302 and 612 of the International Union of Operating Engineers-Employers Construction Industry Retirement Fund, Western Washington Operating Engineers-Employers Training Trust Fund, and associated ancillary funds (collectively “Trust Funds”).

2. The Trust Funds are joint labor-management funds created pursuant to Section 302(c) of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 186(c), and the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1001, *et seq.* as amended (“ERISA”).

3. Defendant Ridgeback Excavating LLC (hereafter “Ridgeback”), is a Washington limited liability corporation engaged in business in the State of Washington having its principal business listed as 22689 Port Gamble Road Northeast, Poulsbo, Washington 98370 with the Washington Secretary of State.

4. Jurisdiction is conferred on this court by Sections 502 and 515 of ERISA, 29 U.S.C. §§ 1132 and 1145.

5. Venue is appropriate in the Division of Seattle, King County, WA under ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2).

II. CLAIM FOR RELIEF: DELINQUENT CONTRIBUTIONS

6. At all material times, Ridgeback has been signatory to a collective bargaining agreement (“CBA”) with the Independent Contractors of Washington and Operating

1 Engineers Local 302 (hereafter referred to as "Local 302"), which incorporates by reference
2 the Trust Agreements for the Trust Funds.

3 7. Alea Battin, Managing Member, was authorized to legally bind and sign
4 contracts on behalf of Ridgeback and signed the Compliance Agreement with Local 302 on
5 October 31, 2019.

6 8. The CBA and Trust Agreements require Ridgeback to make employee benefit
7 contributions to Trust Funds on behalf of Ridgeback's employees working within with the
8 jurisdiction of the CBA.

9 9. At all material times, Ridgeback has employed employees for whom employee
10 benefit contributions are due pursuant to the terms of the CBA and Trust Agreements.

11 10. Ridgeback has failed to timely make employee benefit contributions to the
12 Trust Funds from March 2020. Ridgeback owes \$24,569.09 in contributions for March
13 through July 2020.

14 11. Ridgeback owes an unknown amount in unpaid benefit contributions for
15 August 2020 through current.

16 12. The total amount of unpaid contributions due will be proven on motions or at
17 trial.

18 13. Under the terms of the Trust Agreements and CBA, and under federal statutory
19 law, Ridgeback is obligated to pay liquidated damages, interest, reasonable attorney's fees,
20 and costs and expenses of suit.
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1 14. Ridgeback owes \$5,092.18 in liquidated damages, \$1,902.07 in interest
2 (calculated through October 15, 2020), and \$500 in referral attorney fees for the delinquent
3 period of March through July 2020.

4 15. Ridgeback also owes liquidated damages, interest, and attorney fees for the
5 delinquent period of August 2020 through current. The total amount due will be proven on
6 motions or at trial.

7 16. As required by RCW 18.27.040 and concurrent with this complaint, the Trust
8 Funds have filed an action in King County Superior Court (Cause No. 20-2-15328-1 KNT), to
9 collect the amounts owed by Ridgeback from its contractor's bond.

10 WHEREFORE, Plaintiff Trust Funds pray for a money judgment as follows:

11 A. For judgment against Ridgeback Excavating LLC for a total of \$32,063.34
12 comprised of \$24,569.09 in contributions, \$5,092.18 in liquidated damages,
13 \$1,902.047 in interest, and \$500 in referral attorney fees for the delinquent
14 months of March through July 2020;

15 B. For judgment against Ridgeback Excavating LLC for all outstanding
16 contributions, liquidated damages, and interest due to Trust Funds for the
17 months of August 2020 through current;

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1 C. For reasonable attorneys' fees costs and expenses of suit; and

2 D. For such other and further relief as this court deems just and equitable.

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4 DATED THIS 16th day of October, 2020.

5 /s/ Noelle E. Dwarzski
6 Noelle E. Dwarzski, WSBA # 40041
7 BARLOW COUGHRAN
8 MORALES & JOSEPHSON, P.S.
9 Attorneys for Plaintiff Trusts
10 1325 Fourth Ave., Suite 910
11 Seattle, WA 98101
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